

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

WYMAN GORDON TRU-FORM, LLC,
Employer,

and

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY,
ALLIED-INDUSTRIAL AND SERVICE
WORKERS INTERNATIONAL UNION,
AFL-CIO/CLC,

Union.

Case Nos. 04-CA-182126
 04-CA-186281
 04-CA-188990

**PROPOSED INTERVENOR WILLIAM BERLEW’S EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE’S DECISION**

Pursuant to the NLRB’s Rules and Regulations, including Section 102.46 thereof, Proposed Intervenor William Berlew (“Berlew”) files the following Exceptions to the Administrative Law Judge’s Decision issued by Administrative Law Judge in the above captioned case.

<u>No.</u>	<u>Page(s)</u>	<u>Exception</u>
1	3:2-3	Berlew excepts to the ALJ’s finding that there was no explanation in the record for the timing of the collection of the signatures.
2	3:6-11	Berlew excepts to the ALJ’s finding “that things that had changed between April and October 2016 were the alleged commission of unfair labor practices.”
3	3:40-41	Berlew excepts to the ALJ findings that without further inquiry the Respondent could only reasonably conclude that only 9 of the 43 unit employees wished to decertify the union.
4	4:8-10	Berlew excepts to the categorization of his petition as the NRTWF petition.
5	4:21-25 n.7; 5:1-5	Berlew excepts to the ALJ’s finding that respondent failed to establish it had a good faith objective basis for withdrawing support from the union at the time it withdrew recognition.
6	5:7-15	Berlew excepts to the ALJ’s findings that the evidence does not establish that 8 of the 15 employees who signed pages 2-5 of the petition knowingly signed a petition to decertify the union.

7	5: n.8	Berlew excepts to the ALJ's findings that Crispell and Shovlin's testimony were not consistent regarding how the petition was signed on October 14.
8	5:31-36	Berlew excepts to the ALJ's findings that Brotzman gave credible testimony.
9	5:36-38	Berlew excepts to the ALJ's findings that Brotzman's testimony explains any signature but his own on pages 3, 4, and 5 of the petition.
10	6:1-6	Berlew excepts to the ALJ's findings that the petition did not meet the Board's requirements for decertification petitions.
11	6:5-10	Berlew excepts to the ALJ's findings that Berlew should have been sent back to recollect the petition and that there was no rush.
12	6:22-25	Berlew excepts to the ALJ's findings that Shovlin did not possess the full petition when he collected Petorak, Filipkowski, and Cook's signature.
13	6:25-28	Berlew excepts to the ALJ's findings that because Berlew testified that he obtained Mikolosko's signature on October 14 and Brotzman's on October 19 and Bob Wallace's on October 20 that suggests Shovlin could not have collected Petorak, Filipowski, and Cook's signatures with the entire petition on October 19 and 20.
14	6:30-34	Berlew excepts to the ALJ's findings that because Shovlin did not explain as to when or how Berlew returned the petition to him that Shovlin could not have possessed the entire petition on October 20.
15	6:35-41; 7:1-2	Berlew excepts to the ALJ's decision to discredit Shovlin's testimony that he presented the entire packet of decertification papers to Petorak, Filipkowski, and Cook.
16	6: n.9	Berlew excepts to the ALJ's findings that either he or Shovlin had the entire petition on October 19 and 20, but not both of them.
17	7:1-2	Berlew excepts to the findings that there is no evidence he possessed the entire petition on October 20 when he obtained Wallace's signature.
18	7:4-7	Berlew excepts to the ALJ's findings that there was no convincing explanation why Petorak, Filipkowski, and Cook signed on page 3 of the petition and his findings that they did not understand they were signing a decertification petition.
19	7:7-10	Berlew excepts to the ALJ's findings that Wallace did not understand he was signing a decertification petition.
20	7:7-10	Berlew excepts to the ALJ's decision to discredit Berlew's testimony concerning Bob Wallace's signature on the basis of Brotzman's testimony.
21	7:12-14	Berlew excepts to the ALJ's decision to not credit the signatures of Timothy Ancherani or Kevin Foster on the petition.
22	7:n.10-11	Berlew excepts to the ALJ's findings that Buselli's signature was not properly authenticated on the petition.
23	7:21-27	Berlew excepts to the ALJ's findings that Kevin's Fosters signature was not obtained by Josh Antosh.
24	8:3-5	Berlew excepts to the ALJ's findings that Ancherani did not know that he was signing a petition.
25	8:22-23	Berlew excepts to the ALJ's findings that Antosh did not give credible testimony about Acherani's signature.
26	8:22-26	Berlew excepts to the ALJ's findings that Cegelka's testimony did not establish Acherani did not sign the petition .

27	8:30-32	Berlew excepts to the ALJ's conclusion that the employer failed to establish that the union had lost majority support and therefore violated 8(a)(1) and (5) of the Act.
28	8-9:35-3	Berlew excepts to the ALJ's conclusion that Wyman did not establish that a majority of employees no longer wanted union representation.
29	8-9:n-12	Berlew excepts to the ALJ's findings that the petition did not give a good faith basis to withdraw recognition.
30	9:5-7	Berlew excepts to the ALJ's findings that the employer failed to establish that 7 of the employees did not know they were signing a decertification petition.
31	9:7-12	Berlew excepts to the ALJ's findings that the employer failed to establish that Mikolosko, Brotzman, Ancherani, Petorak, Filipkowski, Cook, and Wallace did not knowingly sign a decertification petition.
32	9:15-16	Berlew excepts to the ALJ's findings that none of the signatories who did not testify had questionable intentions concerning unionization.
33	15:22-30	Berlew excepts to the ALJ's findings that the employer's bargaining over economic matters and its alleged failure to give a comprehensive proposal tainted the petition.
34	15:8-12	Berlew excepts to the ALJ's findings that the employer's bargaining over economic matters and its refusal to make a comprehensive response tainted the petition.
35	17:29-34	Berlew excepts to the ALJ's recommended remedy of restoration of the union's exclusive representation and a six month bargaining order.
36	17:36-40	Berlew excepts to the ALJ's findings that a bargaining order barring an election would vindicate the Section 7 rights of a majority of employees.
37	17-18:41-2	Berlew excepts the ALJ's findings that a bargaining order would foster collective bargaining and industrial peace.
38	18:4-11	Berlew excepts to the ALJ's findings that a bargaining order without a decertification bar would be inadequate to remedy the withdrawal of recognition.
39	1: n.2; ALJ March 14 Order	Berlew excepts to the ALJ's decision to deny Berlew's intervention as a full participant in the hearing.
40	17:29-35	Berlew excepts to the ALJ's decision to impose a bargaining order instead of ordering an election.
41	1: 7	Berlew excepts to the ALJ's claim that he based his credibility determinations on the "demeanor of the witnesses."
42	18:20-25	Berlew excepts to the ALJ's proposed order that Wyman is required to cease and desist from withdrawing recognition from the USW.
43	18:40-45	Berlew excepts to the ALJ's proposed order that Wyman must bargain with the USW for a period not less than six months unless they reach an agreement.

September 17, 2018

/s/ Aaron B. Solem
Aaron B. Solem
Glenn M. Taubman
National Right to Work Legal Defense
Foundation
8001 Braddock Road, Suite 600
Springfield, VA 22160
Tel (703) 321-8510
abs@nrtw.org

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Exceptions was filed electronically with the Executive Secretary using the NLRB e-filing system, and copies were sent to the following additional parties via e-mail as noted:

National Labor Relations Board
Office of the Executive Secretary
1015 Half Street SE
Washington, D.C. 20570-0001
Via e-filing

Lori Armstrong Halber
Rick Grimaldi
Samantha Bononno
Counsel for Respondent
lhalber@fisherphillips.com
rgrimaldi@fisherphillips.com
sbononno@fisherphillips.com

Nathan Kilbert
Antonia Domingo
Counsel for Charging Party
nkilbert@usw.org
adomingo@usw.org

Mark Kaltenbach
Counsel for the General Counsel
Mark.Kaltenbach@nlrb.gov

September 17, 2018

/s/ Aaron B. Solem
Aaron B. Solem